## IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS LAREDO DIVISION

§	
§	
§	
§	CIVIL ACTION NO. 5:18-cv-23
§	
§	
§	
	\$ \$ \$ \$ \$ \$ \$

## **NOTICE OF REMOVAL**

Defendant Target Corporation ("Target") presents this Notice of Removal of the suit brought by Maria Del Rosario Dominguez ("Plaintiff") from the 111<sup>th</sup> District Court of Webb County, Texas, where the suit was instituted, to this United States District Court for the Southern District of Texas, Laredo Division. Expressly reserving all questions other than that of removal, Target respectfully shows that removal is proper as follows:

#### I. STATE COURT SUIT

- 1.1 On or about January 16, 2018, Plaintiff commenced an action in the 111<sup>th</sup> Judicial District Court of Webb County, Texas, entitled "Maria Del Rosario Dominguez vs. Target Corporation, Individually and d/b/a Target Store #2112" and bearing Cause No. 2018CVF000071D2 (the "State Court Suit").
- 1.2 Service of citation in the State Court Suit was made on Target on January 23, 2018. Therefore, this Notice of Removal is timely filed by Target. 28 U.S.C. § 1446(b).
- 1.3 The State Court Suit is a civil suit in which Plaintiff claims personal injuries sustained while inside Target's premises.

## II. PARTIES AND CITIZENSHIP

- 2.1 Plaintiff is and was an individual domiciled in Texas and a citizen of the State of Texas and no other state at all relevant times, including when the State Court Suit was filed and removed.
- 2.2 Target is a foreign corporation duly formed and existing under the laws of the State of Minnesota with its principal place of business in Minneapolis, Minnesota. Target, at the time suit was filed, when this case was removed, and at present, was, and is, a citizen of Minnesota and no other state.

#### III. DIVERSITY JURISDICTION

3.1 Complete diversity exists between Plaintiff, a citizen of Texas, and Target, a citizen of Minnesota. Additionally, the matter in controversy between Plaintiff and Target exceeds, exclusive of interest and costs, the sum of \$75,000; Plaintiff contends in the State Court Suit that she seeks an amount over \$200,000. *Plaintiff's Original Petition*, Exhibit A-2, ¶ 6. This Court therefore has subject matter jurisdiction of this case pursuant to diversity jurisdiction. 28 U.S.C. § 1332.

### IV. OTHER MATTERS

- 4.1 Upon filing this Notice of Removal, Target will provide written notification to Plaintiff and will file a Notification of Removal, attaching a copy of this Notice of Removal, with the Clerk for the 111<sup>th</sup> Judicial District Court of Webb County, Texas.
  - 4.2 Plaintiff made a jury demand in state court.
- 4.3 Target provides a copy of the docket sheet, process, pleadings, and any signed orders served in the State Court Suit, together with an index of matters being filed, and a list of all counsel of record. These documents are attached as Exhibit A.

62580.20331398

### V. CONCLUSION

5.1 This case is a civil action brought in a state court, and the federal district courts have original jurisdiction over the subject matter under 28 U.S.C. §1332. Removal of this case is proper under 28 U.S.C. §1441 and in conformance with 28 U.S.C. §1446. For these reasons, Target removed this case from the 111<sup>th</sup> Judicial District Court of Webb County, Texas, to this Court and prays that this Court enter such orders and grant such relief as may be necessary to secure such removal.

Respectfully submitted,

/s/ Timothy McMurtrie

Timothy D. McMurtrie State Bar No. 13813900 Federal ID No. 11806

Email: <u>tim.mcmurtrie@roystonlaw.com</u>

ROYSTON, RAYZOR, VICKERY & WILLIAMS, LLP

802 N. Carancahua, Suite 1300 Corpus Christi, Texas 78401-0021

(361) 884-8808

(361) 884-7261 (Fax)

ATTORNEYS FOR DEFENDANT TARGET CORPORATION, INDIVIDUALLY AND D/B/A TARGET STORE #2112

### **OF COUNSEL:**

ROYSTON, RAYZOR, VICKERY & WILLIAMS, L.L.P.

62580.20331398

## **CERTIFICATE OF SERVICE**

I certify that the foregoing instrument was served to counsel of record by means indicated below on this 16<sup>th</sup> day of February, 2018.

# **VIA E-SERVICE**

Gene S. Hagood SBN: 08698400 Jessie J. Ormand SBN: 24098209 Megan J. Rothermel SBN: 24088992

LAW OFFICES OF GENE S. HAGOOD

1520 E. Highway 6 Alvin, Texas 77511 Phone: (281) 331-5757 Facsimile: (281) 331-1105

Eservice Email: firm@h-nlaw.com

Attorneys for Plaintiff

/s/ Timothy McMurtrie Of ROYSTON, RAYZOR, VICKERY & WILLIAMS, L.L.P.

62580.20331398 4 JS 44 (Rev. 06/17)

# **CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the

I. (a) PLAINTIFFS			DEFENDANTS						
Maria Dei Rosario Dominguez  (b) County of Residence of First Listed Plaintiff Webb  (EXCEPT IN U.S. PLAINTIFF CASES)  (c) Attorneys (Firm Name, Address, and Telephone Number)  Law Offices of Gene S. Hagood 1520 E. Highway 6 Alvin, TX 77511 (281) 331-5757			Target Corporation, Individually and d/b/a Target Store #2112						
				County of Residence of First Listed Defendant  (IN U.S. PLAINTIFF CASES ONLY)  NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF					
			11	Attorneys (If Known) Timothy McMurtrie Royston, Rayzor, Vickery & Williams, LLP 802 N. Carancahua, Ste. 1300 Corpus Christi, TX (361) 884-8808					
II. BASIS OF JURISD	OICTION (Place an "X" in	One Box Only)	III. CI	TIZENSHIP OF I	PRINCIPA				
☐ 1 U.S. Government Plaintiff	☐ 3 Federal Question (U.S. Government	Not a Party)	1	For Diversity Cases (May)	PTF DEF <b>X</b> 1	Incorporated or P	and One Box f	or Defende PTF	ant) DEF
☐ 2 U.S. Government Defendant	★ 4 Diversity  (Indicate Citizens)	hip of Parties in Item III)	Citize	n of Another State	<b>j</b> 2 <b>j</b> 2	Incorporated and of Business In	Principal Place	□ 5	<b>X</b> 5
				n or Subject of a 📑	3 0 3	Foreign Nation		□ 6	□ 6
IV. NATURE OF SUIT		nly) ORTS			Click	here for: Nature	of Suit Code De	scription	S.
110 Insurance   120 Marine   130 Miller Act   140 Negotiable Instrument   150 Recovery of Overpayment & Enforcement of Judgmen   151 Medicare Act   152 Recovery of Defaulted Student Loans (Excludes Veterans)   153 Recovery of Overpayment of Veteran's Benefits   160 Stockholders' Suits   190 Other Contract   195 Contract Product Liability   196 Franchise   196 Franchise   210 Land Condemnation   220 Foreclosure   230 Rent Lease & Ejectment   240 Torts to Land   245 Tort Product Liability   290 All Other Real Property   290 All Other Real P	PERSONAL INJURY  310 Airplane 315 Airplane Product Liability 320 Assault, Libel & Slander 330 Federal Employers' Liability 340 Marine 345 Marine Product Liability 359 Motor Vehicle Product Liability 360 Other Personal Injury 360 Other Personal Injury 46dical Malpractice  CIVIL RIGHTS 440 Other Civil Rights 441 Voting 442 Employment 443 Housing/ Accommodations 445 Amer. w/Disabilities - Employment 446 Amer. w/Disabilities - Other 448 Education	PERSONAL INJURY  365 Personal Injury - Product Liability  367 Health Care/ Pharmaceutical Personal Injury Product Liability  368 Asbestos Personal Injury Product Liability  PERSONAL PROPER  370 Other Fraud  371 Truth in Lending  380 Other Personal Property Damage Product Liability  PRISONER PETTION  Habeas Corpus:  463 Alien Detainee  510 Motions to Vacate Sentence	TY	Progression of Property 21 USC 881 Other  LABOR Fair Labor Standards Act Labor/Management Relations Railway Labor Act Family and Medical Leave Act Other Labor Litigation Employee Retirement Income Security Act  IMMIGRATION Naturalization Application Other Immigration Actions		al 28 USC 158 trawal SC 157  TYRIGHTS rights t- Abbreviated Orng Application mark SECURITY 1395ff) Lung (923) CDIWW (405(g)) Title XVI 05(g))  LTAX SUITS (U.S. Plaintiff Fendant)	OTHER  375 False Cl. 376 Qui Tam 3729(a) 400 State Re. 410 Antitrust 430 Banks ar 450 Commer 460 Deportat 470 Racketee	aims Act (31 USC) apportionn ad Banking ce ion r Influence Organizatio r Credit t TV Si/Commode e tutory Act ral Acts ental Matte of Informa artive Proce ecision onality of	ed and ons littles/
🗖 1 Original 💢 2 Ren	noved from 3 F	Appellate Court	4 Reinsta Reoper	ned Another	District	☐ 6 Multidistric Litigation - Transfer	· i	Iultidistr itigation irect File	-
VI. CAUSE OF ACTIO	N Brief description of car Personal Injury - p	ute under which you are	filing (Do	not cite jurisdictional statu	ites unless dive	rsity):			
VII. REQUESTED IN COMPLAINT:	CHECK IF THIS I UNDER RULE 23	S A CLASS ACTION	DEN	IAND \$		ECK YES only if	f demanded in co	mplaint:	<del></del>
VIII. RELATED CASE IF ANY	(See instructions):	UDGE			_DOCKET		7.00	110	
OR OFFICE USE ONLY	- pro-	SIGNATURE OF ATTO	RNEY OF I	HECORD					
begger- a	DUNT	APPLYING IFP		JUDGE		MAG HIDG			